



Town of Uxbridge
Planning Board
21 South Main St.
Uxbridge, MA 01569
(508) 278-6487

Conservation Design Development Special Permit
Case No. CD01-08
Throwbridge Estates

June ____, 2008

Applicant:	Timothy Barlow
Address:	P.O. Box 12 South Grafton, MA 01560
Location:	434 Sutton Street
Assessors Reference:	Map 4, Parcel 2976
Property Owner:	Arnold Baker
Deed Reference:	Deed Book/Page 5656/319
Total Acreage:	34.19 acres
Site Plan:	Throwbridge Acres dated February 19, 2008
Engineer:	Guerriere & Halnon, Inc

This property is in the Agricultural zoning district. A Conservation Design Development is permitted by Special Permit.

Notice is hereby given that the special permit granting authority, the Uxbridge Planning Board, has granted the special permit with conditions under Section 400-30 (formerly Section VII f.12) Conservation Design Development of the Zoning Bylaws for the Town of Uxbridge.

BACKGROUND:

It is hereby certified by the Planning Board of the City/Town of Uxbridge, Massachusetts that, following an application made on March 21, 2008, a duly called and properly posted public hearing of said Planning Board was held on April 23, 2008 and on May 28, 2008, at which time the public hearing was closed. On June 11, 2008, a motion was made to grant the special permit for a Conservation Design Development based on the findings and with conditions as described herein.

FILINGS upon which the decision is based:

1. Application for Special Permit, submitted January 16, 2008 and containing application forms and checklists, deeds, ownership data and fees. At that time, the application was deemed incomplete. It was later supplemented so as to constitute a complete submittal package.
2. Definitive Site Plans drawn by Guerriere & Halnon, Inc. dated February 19, 2008
 - Sheet 1 of 11, Index Plan of Preliminary Subdivision Plans
 - Sheet 2 of 11, Overview of Preliminary Conventional Subdivision Plan
 - Sheet 3-6 of 11, Preliminary Conventional Subdivision Plan
 - Sheet 7 of 11, Overview of Preliminary Conservation Plan
 - Sheet 9-11 of 11, Preliminary Conservation Subdivision Plan
3. Correspondence from the Applicant as follows:
 - Guerriere & Halnon, Inc., dated August 6, 2007
 - Guerriere & Halnon, Inc., dated March 20, 2008
 - Guerriere & Halnon, Inc., dated March 21, 2008
4. Correspondence from Staff as follows:
 - Director of P&ED, dated January 22, 2008
 - Director of P&ED, dated March 3, 2008
 - Director of P&ED, dated April 18, 2008

FINDINGS

Based on the foregoing and the other findings contained in this decision, the Planning Board hereby finds that the benefits of the proposed conservation design development outweigh potential detriments to the neighborhood and the Town of Uxbridge, and offer public benefit as compared to the Conventional Development Plan. A Conventional Design development shall preserve open space and protect natural resources.

1. The subject property consists of ± 34.19 acres. The proposed development preserves approximately 23.36 acres of land for open space and recreation out of the 34.19 acre site. Conventional development would preserve little if any open space.

2. A minimum of 30% of the parcel shown on the development plan is shown as contiguous open space, as required by the Zoning Bylaws. Not more than 25% of the open space shall be wetlands, as defined pursuant to MGL c. 131, § 40. Development designates ±23.36 acres of open space shown as “Open Space” in the accompanying preliminary subdivision plan, all of which is contiguous.
3. The open space is proposed to be used in a manner consistent with the Zoning Bylaws for conservation, passive recreation, agriculture, and/or other allowable purposes.
4. The open space shall be owned and maintained in accordance with the provisions of the Zoning Bylaws. The Applicant has indicated an intent to establish a homeowners’ association for these purposes.
5. Proposed “buildable lots” shown on the concept plan conform to all the requirements of the zoning by-laws including but not limited to the provisions of Section 400-30 F 2 [Modification of lot requirements]
6. The proposed development as modified by agreement with the applicant and by the conditions of approval imposed by the Planning Board is in harmony with the general purpose and intent of the Conservation Design Development Bylaw.
7. All house lots within the Conventional Design development are shown to be served by public water service.

The Planning Board has taken into account the foregoing considerations in determining to issue this Special Permit and hereby finds that the site is appropriate for the development as shown on the plan.

THE SPECIAL PERMIT IS GRANTED WITH THE FOLLOWING CONDITIONS:

1. The Definitive Subdivision shall be designed and constructed in accordance with this special permit and pursuant to the Subdivision Rules & Regulations of the Town of Uxbridge.
2. The number of residential lots shall be limited to twelve (12), as depicted on Preliminary subdivision plan prepared by Guerriere & Halnon of Whitinsville, MA dated February 19, 2008. This reflects a 10% bonus as permitted by the Zoning Bylaws for a Conservation Design development which provides a bonus provision when the applicant makes a dedication of land for public purpose or proposes an access easement to open space if either, in the opinion of the Board, warrants such an increase. No lots in the subdivision development shall be altered to create additional building lots within the subject property.
3. Development within the designated open space is prohibited.

4. The applicant has indicated that the open space ownership will be retained by a Homeowners' Association. Documents to establish such an Association, clearly articulating and advancing the purposes of the open space and the conditions of approval relative thereto shall be submitted as part of any Application for Definitive Plan approval. Such documents shall include the Covenant, Declaration of Restrictions and Establishment of Owners Association, Bylaws of such Association and any other applicable documents. Documents shall be suitable to ensure that future purchasers of subject lots are aware of the provisions for the open space and public access to it. Execution of these finalized documents in a form and content acceptable to the Planning Board shall be a condition of endorsement of any Definitive Plan for the property. Such documents shall be recorded at the Registry of Deeds prior to release of any lots associated with this Conservation Design special permit.
5. Public access to the open space shall be provided and shall be shown on the Definitive Plans. Access shall include off-street vehicular parking spaces located on the privately owned/maintained designated open space, and demarcation of the open space sufficient to clearly indicate access points thereto and boundaries thereof
6. Deeds for house lots 1 through 12 inclusive shall reference this Conservation Design special permit.
7. The Open Space parcel is shown to include stormwater management facilities. Maintenance of such, including a detailed and acceptable maintenance plan, shall be clearly referenced in documents affecting the designation of Open Space shown on the plan.
8. The area designated for agricultural and gardening use/s shall be shown on the Definitive Plan and shall be clearly demarcated.
9. The property bounds of the designated open space shall be surveyed and marked in the field with permanent markers; granite monuments, iron rods, or similar methods. Such demarcation shall be proposed as part of any application for Definitive Plan approval, and shall be installed prior to release of any lot for building or sale purposes.
10. Disturbance of the open space and its buffer area shall constitute a zoning violation.
11. The Zoning Bylaw still requires the approval of a definitive plan for this subdivision. The Board reserves the right to add additional conditions on the project as a result of additional information that is provided during the definitive review process. This may require reopening the special permit with notice as required under MGL 40A.
12. Construction of the infrastructure appears to require approval by the Uxbridge Conservation Commission. The applicant shall comply with all requirements as may be imposed by the Uxbridge Conservation Commission in any Order of Conditions issued for this project.
13. The applicant shall comply with all conditions imposed by the Uxbridge Board of Health to the extent that they may apply for this project.

14. The applicant shall record this special permit at the Worcester District Registry of Deeds within 6 months, and provide evidence thereof to the Planning Board, or this special permit shall become null and void. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L. c.40A, s. 17.
15. In accordance with Chapter 40A, this special permit shall lapse in two years, if a substantial use thereof has not commenced, except for good cause. Exercising said special permit shall require filing of an application for Definitive Plan approval within said time period, provided said application is ultimately approved. Said time shall not include such time required to pursue or await the determination of an appeal referred to in M.G.L. c.40A, s. 17.

After a public hearing, and with the attached conditions, the Planning Board hereby certifies that this Special Permit meets the intent of the requirements under Section 400-30 (formerly Section VII f12), Conservation Design Development of the Uxbridge Zoning Bylaw.

PLANNING BOARD ACTING AS
SPECIAL PERMIT GRANTING AUTHORITY

John Morawski, Chairman

Deborah Bernier

Charles Lutton

Peter Petrillo

Stanley Stefanick

Barry Desruisseaux

_____, 2008

This is to certify that twenty days have elapsed since this decision was filed in the Town Clerk's office and no appeals have been filed in reference to the same.

A TRUE COPY

ATTEST:

Town Clerk